

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE ORDER REQUIRING GOOGLE, INC.
TO ASSIST IN THE EXECUTION OF A
SEARCH WARRANT ISSUED BY THIS
COURT

Case No. 11-90811-MISC
OCT - 6 4 11
FORWARDED TO: JEREMY W. WIEKING
NORTHERN DISTRICT OF CALIFORNIA
APPLICATION

JSC lmc

INTRODUCTION

The United States of America, by and through Melinda Haag, United States Attorney, and Brigid Martin, Assistant United States Attorney, hereby moves this Court under the All Writs Act, 28 U.S.C. § 1651, for an order requiring Google, Inc. to assist in the execution of a federal search warrant by facilitating the unlocking of an LG Brand Model MS690 cellular telephone using Google's Android operating system.

FACTS

The Federal Bureau of Investigation currently has in its possession a LG Brand Model MS690 that was seized by the Antioch Police Department (APD) incident to an arrest. On September 28, 2011, the Federal Bureau of Investigation obtained a search warrant for the LG Brand Model MS690. Initial inspection of the LG Brand Model MS690 reveals that it is locked. Because the LG Brand Model MS690 is locked, law enforcement agents are not able to examine the LG Brand Model MS690 as commanded by the search warrant.

The LG Brand Model MS690 has Model No: MS690 and MEID Number:
268435460007455076.

Google, Inc., the manufacturer of the Android operating system utilized in the LG Brand Model MS690, may have the capability of bypassing the LG Brand Model MS690's lock. This

Application seeks an order requiring Google, Inc. to use any such capability, so as to assist agents in complying with the search warrant.

DISCUSSION

The All Writs Act provides that “[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). As the Supreme Court explained, “[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute.” *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34, 43 (1985). “The power conferred by the Act extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice... and encompasses even those who have not taken any affirmative action to hinder justice.” *United States v. New York Tel. Co.*, 434 U.S. 159, 174 (1977). Specifically, in *United States v. New York Tel. Co.*, the Supreme Court held that the All Writs Act permitted district courts to order a telephone company to effectuate a search warrant by installing a pen register. Consequently, this Court has the authority to order Google, Inc., to use any capabilities it may have to unlock the LG Brand Model MS690.

The government is aware, and can represent, that in other cases, courts have ordered the unlocking of a telephone utilizing the Android operating system under this authority. Additionally, Google, Inc. has routinely complied with such orders.

This court should issue the order because doing so would enable agents to comply with

the state Court's warrant commanding that the LG Brand Model MS690 be examined for evidence identified by the warrant. Examining the LG Brand Model MS690 without Google's assistance, if it is possible at all, would require significant resources and may harm the LG Brand Model MS690. Moreover, the order is not likely to place any unreasonable burden on Google.

Date: October 5, 2011

Respectfully submitted,

MELINDA HAAG
United States Attorney

A handwritten signature in cursive script, appearing to read "B. S. Martin", written in dark ink.

BRIGID S. MARTIN
Assistant United States Attorney